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County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA

TUESDAY, JUNE 10, 2008, 5:30 P.M.

San Diego County Administration Center

1600 Pacific Highway, Room 302/303, San Diego, 92101

The public portion of the meeting must be concluded in time to allow the public to vacate the building by 6:00 p.m.
(Free parking is available on the street or pay Ace Parking on the south side. Enter at the north entrance.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form to the Administrative Secretary prior to the commencement of the meeting.

DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to Vickie Ollier at (619) 238-6776 at least 24 hours before the meeting.

1. ROLL CALL

2. MINUTES APPROVAL

- a) Minutes of the April 2008 Regular Meeting (*Attachment A*)

3. EXECUTIVE OFFICER'S REPORT

- a) Open Complaints/Investigations Workload Reports (*Attachment B*)
- b) Presentations in April (State Department delegation from Brazil, college classes)
- c) Recruitment for Special Investigator
- d) Sheriff's Department overview in July or August

4. NEW BUSINESS

- a) Presentation on pre-sentence reports and investigations by the San Diego County Probation Department
- b) Promotion of Sgt. Anthony Ray

-continued on next page-

5. UNFINISHED BUSINESS

- a) N/A

6. PUBLIC COMMENTS

This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary.

7. CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

07-043

1. Illegal Search/Home – Deputy 3 illegally entered the complainant's residence through a window without a search warrant.

Recommended Finding: Not Sustained

Rationale: All available data was researched and no Department record was found related to the incident. A manual review daily GPS logs to determine whether any patrol cars were near the complainant's residence found no matches for the date provided by the complainant. Without further information, CLERB is unable to identify any involved personnel and is unable to further investigate this allegation.

2. Illegal Search/Person – Deputy 3 questioned the complainant's minor son without consent while still in his bed in his house during an illegal search.

Recommended Finding: Not Sustained

Rationale: See above.

3. Discrimination/Racial – Deputy 1 contacted and searched the complainant's son and other Hispanic children based on their ethnicity.

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied contacting the minors because of their ethnicity but rather for identification and investigation of violations of laws. There is insufficient evidence to either prove or disprove this allegation.

4. Discrimination/Racial – Deputy 2 contacted and searched the complainant’s son and other Hispanic children based on their ethnicity.

Recommended Finding: Not Sustained

Rationale: Deputy 2 denied contacting anyone based upon ethnicity unless it was a specific descriptor of a suspect, victim, or witness. There is insufficient evidence to either prove or disprove this allegation.

5. Discrimination/Racial – Deputy 2 told a child, “You shouldn’t be hanging out with those type of kids,” referring to the complainant’s son and other Hispanic children.

Recommended Finding: Not Sustained

Rationale: Deputy 2 said he did not recall contacting the minor. There is insufficient evidence to either prove or disprove this allegation.

6. Misconduct/Procedure – Deputy 1 refused to contact the complainant on a cell phone upon request of the complainant’s son, saying, “We don’t do that.”

Recommended Finding: Not Sustained

Rationale: Deputy 1 did not recall the incident but stated he usually asks minors he contacts to call a parent to notify them of the contact and reason for the contact. Deputy 2 documented an incident in which he contacted the minor, called the complainant, and she responded to the scene. There is insufficient evidence to either prove or disprove this allegation.

7. Misconduct/Procedure – Deputy 1 took photographs of the complainant’s son and other children without having a basis for doing so and without permission.

Recommended Finding: Action Justified

Rationale: Deputy 1 was justified in conducting a field interview while addressing graffiti and gang problems in the area. The Sheriff’s Department does not have policy prohibiting taking photographs during investigatory contacts, and therefore there is no violation of policy.

07-058

1. Misconduct/Procedure – Deputy 1 detained the complainant in custody without cause after his parole hold was lifted.

Recommended Finding: Action Justified

Rationale: San Diego Police Department officers arrested the complainant on a drug charge, a State parole agent authorized a parole hold, and he was held at a Sheriff’s detention facility on the drug charge and the parole hold. The parole hold was released and eventually communicated to the Sheriff’s Department, which recorded the release upon receipt. Nevertheless, the complainant remained in jail because of court-ordered hearings in three other cases involving a failure to appear and drug treatment. The complainant was released following his last court hearing. The actions of Sheriff deputies in incarcerating the complainant were lawful, justified and proper.

07-060

1. Misconduct/Procedure – Probation Officer 1 failed to complete transition of the complainant’s supervision from Orange County, resulting in his arrest on a probation warrant.

Recommended Finding: Action Justified

Rationale: After the assigned probation officer was unable to contact the complainant by telephone or mail, a judge issued a warrant for his arrest. The complainant’s probation requires that he report a change of

address, obtain consent prior to moving, and document his current address and telephone number. After several months of unsuccessful attempts to reach the complainant and no contact from the complainant, Probation Officer 1 petitioned the court for an arrest warrant, which was issued and resulted in the complainant's arrest. Her actions were lawful, justified and proper.

07-071

1. Excessive Force – Deputy 2 shot the complainant with a Pepperball Launcher in the face and on his body approximately 50 times.

Recommended Finding: Action Justified

Rationale: Deputies responded to a domestic disturbance between the complainant and his parents. The complainant barricaded himself inside a trailer and refused to obey deputy commands to exit. Deputy 2 was authorized pursuant Sheriff's Policy and Procedure 2.49 to use the amount of necessary force to overcome the complainant's resistance. The complainant subsequently escaped and was later apprehended. The deputy's actions were lawful, justified, and proper.

2. False Arrest – Deputies 1 and/or 3 mistakenly arrested the complainant in response to his parent's domestic violence altercation.

Recommended Finding: Action Justified

Rationale: There is no evidence to corroborate the complainant's version that his parents were the aggressors. The complainant's parents told deputies he was the aggressor, and in his videotaped post-Miranda statement, while minimizing his actions, the complainant admitted to disabling the telephone, taking his father's keys and wallet, cracking the windshield of the vehicle and placing his father into a chokehold. The complainant pled guilty to assault, robbery, damage to a phone line, battery, vandalism and resisting arrest for his role in the incident. The deputies' arrest of the complainant was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 1 would not permit the complainant access to an attorney.

Recommended Finding: Action Justified

Rationale: The complainant said he requested an attorney when he barricaded himself in a trailer. However, the complainant did not have the right to an attorney until he was in custody and facing questioning by deputies. Following the complainant's arrest and before an interview, Deputy 1 twice on videotape advised him of his right to appointed counsel and to have an attorney with him before and during the interview. The complainant said he understood and gave a statement without first consulting an attorney. The evidence confirms that Deputy 1 advised the complainant of his right to counsel as required by law, but that the complainant elected not to exercise this right. Deputy 1's actions were lawful, justified and proper.

07-081

1. Misconduct/Procedure – Deputy 1 housed the complainant at George Bailey Detention Facility in violation of a "no return" classification.

Recommended Finding: Summary Dismissal

Rationale: The complainant failed to contact CLERB after his release from jail. The out-of-custody contact information he provided is no longer valid, and he is unreachable to assist CLERB in its investigation. The case is submitted with a recommendation for Summary Dismissal.

2. Misconduct/Procedure – Deputy 1 failed to answer the complainant's grievances regarding his placement at George Bailey Detention Facility.

Recommended Finding: Summary Dismissal

Rationale: See above.

3. Misconduct/Procedure – Deputy 1 blocked the complainant’s ability to place phone calls outside the detention facility.

Recommended Finding: Summary Dismissal

Rationale: See above.

07-084

1. False Arrest – Probation Officer 3 arrested the complainant for possessing a knife that he had purchased with fishing equipment and because of his girlfriend’s “weed” (1 ½ grams of marijuana).

Recommended Finding: Summary Dismissal

Rationale: The complainant failed to contact CLERB after his release from jail. The out-of-out of custody contact information he provided is no longer valid, and he is unreachable to assist CLERB with its investigation. The case is submitted with a recommendation for Summary Dismissal.

2. Illegal Search & Seizure - Probation Officer 3 threatened the complainant’s girlfriend with arrest if she did not allow them to search her handbag and vehicle.

Recommended Finding: Summary Dismissal

Rationale: See above.

3. Misconduct/Procedure – Probation Officer 1 told the complainant he had one year left on his probation, which the complainant believes to be only six months.

Recommended Finding: Summary Dismissal

Rationale: See above.

4. Misconduct/Procedure – Probation Officer 2 told the complainant he was in violation of his probation for not reporting after Probation Officer 1 had instructed Williams to wait for contact by letter.

Recommended Finding: Summary Dismissal

Rationale: See above.

07-092

1. Illegal Search & Seizure – Deputy 1 opened the complainant’s glove compartment without permission.

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied opening the complainant’s glove box and explained that his primary focus was attending to the other party, who was hysterical and injured. Deputy 2, who had the most contact with the complainant, also denied opening the complainant’s glove box. There is insufficient to either prove or disprove this allegation.

2. Misconduct/Procedure – Deputy 1 ordered an eyewitness away from the accident scene and failed to obtain a witness’s statement.

Recommended Finding: Not Sustained

Rationale: Deputy 1 and Deputy 2, who also responded to the collision, both denied this allegation. Deputy 1 interviewed one female witness who was near the party injured in the collision and said that he was not

made aware of the possibility of another witness until the CLERB complaint. There is insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Discourtesy – Deputy 1 “rudely and sarcastically” told the complainant, “Yeah, I’ve heard THAT one before,” when the complainant said her car insurance was current.

Recommended Finding: Not Sustained

Rationale: Deputy 1 and Deputy 2, who also responded to the collision, both denied this allegation. Deputy 1 said he did not have a disagreement with the complainant concerning her insurance and that Deputy 2 handed him the license, registration, and proof of insurance. Deputy 2 stated there was no disagreement or discussion with the complainant over these items. There is insufficient evidence to prove or disprove the allegation.

4. False Reporting – Deputy 1’s accident report omitted information and contained inconsistencies and inaccuracies.

Recommended Finding: Action Justified

Rationale: The report concluded that the complainant was in violation of crossing a highway from public property, and failed to properly yield the right-of-way. Deputy 1’s report admittedly contained two non-substantive inconsistencies, one owing to a change after the report was written, that had no bearing on the report’s description of the collision or its conclusion. The evidence shows the alleged act occurred but was lawful, justified and proper.

07-095

1. False Arrest – Deputy 1 arrested the complainant on a false complaint of assault.

Recommended Finding: Summary Dismissal

Rationale: Complainants are required to provide current contact information to CLERB for investigative follow-up and notification of meetings, recommendations, and findings. Without further contact and cooperation from the complainant, CLERB is unable to investigate further.

2. Excessive Force – Deputy 1 drug the complainant from his vehicle, re-injuring his shoulder.

Recommended Finding: Summary Dismissal

Rationale: See above

3. False Reporting – Deputy 1’s arrest report contained inconsistencies and inaccuracies.

Recommended Finding: Summary Dismissal

Rationale: See above

4. Misconduct/Procedure – Deputy 2 impounded the complainant’s rental truck.

Recommended Finding: Summary Dismissal

Rationale: See above

5. Misconduct/Procedure – Deputy 2 told the complainant’s minor son to secure their pit bull dogs before they killed them.

Recommended Finding: Summary Dismissal

Rationale: See above

6. Misconduct/Intimidation – Deputy 2 threatened to arrest the complainant’s spouse and take their son to a “bad place.”

Recommended Finding: Summary Dismissal

Rationale: See above

7. Misconduct/Procedure – Deputy 2 trashed the complainant’s home while executing a bench warrant.

Recommended Finding: Summary Dismissal

Rationale: See above

8. Misconduct/Procedure – Deputy 2 refused to allow the complainant’s spouse to see the warrant or observe the search.

Recommended Finding: Summary Dismissal

Rationale: See above

9. False Reporting – Deputy 2 falsely reported to Child Protective Services that the complainant’s house was unsuitable because it was filled with dog feces.

Recommended Finding: Summary Dismissal

Rationale: See above

10. Misconduct/Discourtesy – Deputy 1 referred to the complainant’s son, who has cerebral palsy, as “retarded.”

Recommended Finding: Summary Dismissal

Rationale: See above.

07-097

1. False Reporting – Probation Officer 1 reported to the court that the complainant used an alias that included 16 previous convictions.

Recommended Finding: Action Justified

Rationale: Although the complainant said he was the victim of identity theft and that Probation Officer 1 falsely reported convictions under someone else’s name, he was linked to each of his numerous aliases and convictions through fingerprint identification. The actions of Probation Officer 1 were lawful, justified and proper.

08-010

1. Misconduct/Discourtesy – Deputy 2 yelled, “Shut the fuck up or I’m going to tase (Taser) you.”

Recommended Finding: Summary Dismissal

Rationale: The complainant failed to contact the assigned investigator as requested. Without contact and cooperation from the complainant, CLERB is unable to investigate further.

2. Discrimination/Racial – Deputies 1 or 2 said, “Help us get these niggers out of here.”

Recommended Finding: Summary Dismissal

Rationale: See above.

3. Excessive Force – Deputy 1 slammed the complainant to the ground resulting in a “busted lip.”

Recommended Finding: Summary Dismissal

Rationale: See above.

4. Excessive Force – Deputy 1 choked the handcuffed complainant in the back seat of a patrol vehicle.

Recommended Finding: Summary Dismissal

Rationale: See above.

5. Misconduct/Procedure – Deputy 1 “blew off” the complainant when he told him he wanted to file a complaint.

Recommended Finding: Summary Dismissal

Rationale: See above.

08-014

1. False Arrest – Deputy 1 arrested the complainant for possession of marijuana and three counts of ADW (assault with a deadly weapon).

Recommended Finding: Summary Dismissal

Rationale: The complainant failed to contact the assigned investigator as requested. Without contact and cooperation from the complainant, CLERB is unable to investigate further.

2. Excessive Force – Deputy 1 grabbed the complainant and placed him into a chokehold as he stood there passively.

Recommended Finding: Summary Dismissal

Rationale: See above.

3. Misconduct/Retaliation – Deputy 1 twice arrested the complainant after Montgomery refused to lie about a witness in a stabbing investigation.

Recommended Finding: Summary Dismissal

Rationale: See above.

08-015

1. Misconduct/Procedure – Deputy 1 disposed of or lost the complainants’ property during transfer from George Bailey Detention Facility to State Prison.

Recommended Finding: Not Sustained

Rationale: The deputy did not remember the complainants or their property and denied discarding or losing any inmate property during transfer from jail to prison. The evidence is insufficient to either prove or disprove the allegation.

2. Misconduct/Procedure – Deputy 2 disposed of or lost the complainants’ property during transfer from George Bailey Detention Facility to State Prison.

Recommended Finding: Not Sustained

Rationale: The deputy did not remember the complainants or their property and denied discarding or losing any inmate property during transfer from jail to prison. The evidence is insufficient to either prove or disprove the allegation.

08-025

1. False Arrest – Deputy 2 arrested the complainant for Grand Theft after he found a package lying on the ground.

Recommended Finding: Summary Dismissal

Rationale: The complainant's arrest was by the Carlsbad Police Department over which CLERB has no jurisdiction.

2. Misconduct – Deputy 1 and the San Diego County jail system is “completely out of control!”

Recommended Finding: Summary Dismissal

Rationale: CLERB has no jurisdiction over non-specific jail conditions.

08-034

1. Excessive Force – Deputy 1 grabbed and held the complainant's arm without cause.

Recommended Finding: Not Sustained

Rationale: Deputy 1 said he did not remember touching the complainant at all but said he could have touched her shoulder when evaluating her for being under the influence of drugs. Because of shadows and camera angle, surveillance video showed that Deputy 1 briefly leaned toward the complainant but did not show his right arm or hand. The evidence is insufficient to prove or disprove the allegation.

2. Misconduct/Intimidation – Deputy 1 told the complainant to watch her attitude or the clerks would treat her rudely.

Recommended Finding: Not Sustained

Rationale: The complainant's male companion reiterated the complainant's account. Deputy 1 described the complainant as rude and evasive and told her she “could get a lot more” without attitude and rudeness toward court staff. This allegation is subjective in nature, and the evidence is insufficient to prove or disprove the allegation.

3. Criminal Conduct – Deputy 1 disposed of or misplaced court documents related to the complainant's divorce.

Recommended Finding: Unfounded

Rationale: The complainant blamed Deputy 1, whom she believed to be a friend of her estranged husband, for misplacing the court file for her divorce and/or removing its contents. According to a supervisor, a party may show identification and view his or her divorce court file without supervision at any time. As Deputy 1 explained, the only time he handles a court file is when the judge directs him to escort the file and the parties to a facilitator in the building. Deputy 1 denied that he ever lost, destroyed, or misplaced the complainant's court file or its contents. There is no evidence that Deputy 1 was responsible. The evidence showed the alleged act did not occur.

4. Misconduct/Procedure – Deputy 1 acted in a biased manner toward the complainant because of a personal relationship.

Recommended Finding: Unfounded

Rationale: The complainant's estranged husband denied knowing Deputy 1 other than as the deputy assigned to the courtroom in his divorce proceeding. He also denied serving in the military with any courtroom bailiff. Deputy 1 denied knowing the complainant's estranged husband other than as a party to case in his assigned courtroom. There is no evidence of a personal relationship between the deputy and the estranged husband or any resulting bias by Deputy 1. The evidence showed the alleged act did not occur.

08-038

1. Misconduct/Procedure – Deputy 1 drove a patrol car in an unsafe manner.

Recommended Finding: Not Sustained

Rationale: The complainants briefly observed Deputy 1 driving on the freeway and alleged she was careless and disregarded other motorists. Deputy 1 said she entered an emergency lane, drove fast, and swerved in her lane while coping with a combative prisoner who was trying to escape from the patrol car by slipping out of her seatbelt, standing up, pulling on the door handles, and kicking the backseat windows. The deputy said she was in control of the vehicle at all times and did not endanger others. The evidence is insufficient to either prove or disprove the allegation.

8. COMMUNICATIONS (*Attachment C*)

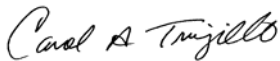
The following news articles or correspondence are attached to this agenda:

Article Title

Women's jail may get \$100 million from state (Santee, CA)

Probation sweep results in 13 arrests (Escondido, CA)

Imperial Beach ok's pact with Sheriff's Department (Imperial Beach, CA)



CAROL A. TRUJILLO
Executive Officer

CAT/vlo
Attachments